

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **MIDDLE DISTRICT OF PENNSYLVANIA**

4   LORI ANDRUKAITIS,                                   )

5                                   Plaintiff                                   )

6                                   v.                                   )

7                                   )

8   COLLECTION MANAGEMENT                                   )

9   COMPANY d/b/a CMC - CREDIT                                   )

10   MANAGEMENT COMPANY,                                   )

11                                   Defendant                                   )

**Case No.:**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**(Unlawful Debt Collection Practices)**

12                                   **COMPLAINT**

13           LORI ANDRUKAITIS (“Plaintiff”), by and through her attorneys,  
14   KIMMEL & SILVERMAN, P.C., alleges the following against COLLECTION  
15   MANAGEMENT COMPANY d/b/a CMC - CREDIT MANAGEMENT  
16   COMPANY (“Defendant”):

17                                   **INTRODUCTION**

18

19           1.   Plaintiff’s Complaint is based on the Fair Debt Collection Practices  
20   Act (“FDPCA”), 15 U.S.C. § 1692 *et seq.*

21                                   **JURISDICTION AND VENUE**

22

23           2.   Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),  
24   which states that such actions may be brought and heard before “any appropriate  
25   United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States.

3  
4 3. Defendant has an office and conducts business in the Commonwealth  
5 of Pennsylvania, and as such, personal jurisdiction is established.

6 4. Venue is proper pursuant to 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2).

7  
8 **PARTIES**

9 5. Plaintiff is a natural person residing in Wilkes Barre, Pennsylvania  
10 18705.

11 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §  
12 1692a(3).

13  
14 7. In the alternative, Plaintiff is a person granted a cause of action under  
15 the FDCPA. See 15 U.S.C. §1692k(a) and Wenrich v. Cole, 2000 U.S. Dist  
16 LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

17  
18 8. Defendant is a national debt collection company with corporate  
19 headquarters located at 2121 Noblestown Road, Pittsburgh, PA 15205.

20 9. Defendant is a debt collector as that term is defined by 15 U.S.C. §  
21 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

22  
23 10. Defendant acted through its agents, employees, officers, members,  
24 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
25 representatives, and insurers.

## FACTUAL ALLEGATIONS

11. At all relevant times, Defendant contacted Plaintiff in its attempts to collect a consumer debt.

12. The alleged debt arose out of transactions, which were primarily for personal, family, or household purposes, as Plaintiff has no business debt.

13. Beginning in September 2014, Defendant placed repeated and continuous calls to Plaintiff's cellular telephone in its attempts to collect the alleged debt.

14. Defendant never disclosed to Plaintiff the name of the creditor to whom the debt was allegedly owed; rather, it would only tell her the amount it was seeking to collect.

15. On more than one occasion, Plaintiff demanded that Defendant stop calling her cellular telephone.

16. Defendant, however, never updated its records to restrict calls to Plaintiff's cellular telephone.

17. Instead, Defendant continued to call Plaintiff on her cellular telephone, each time knowing that its calls were unwanted.

18. For example, Defendant called Plaintiff on September 11, 2014, at 2:41 p.m.; September 15, 2014, at 6:15 p.m.; September 19, 2014, at 10:35 a.m.; and September 23, 2014, at 4:17 p.m.

1           19. Once Defendant was aware that Plaintiff did not wish to be contacted  
2 there was no legitimate reason for additional calls, other than for the purposes of  
3 harassment.  
4

5           20. Finally, within five (5) days of its initial communication with  
6 Plaintiff, Defendant failed to send her written notice informing her of her right to  
7 dispute the debt and/or request verification of the debt, as well as to request the  
8 name and address of the original creditor.  
9

10  
11                           **DEFENDANT VIOLATED**  
12                           **THE FAIR DEBT COLLECTION PRACTICES ACT**

13                           **COUNT I**

14           20. Defendant's conduct, as detailed in the preceding paragraphs,  
15 violated 15 U.S.C. § 1692d.  
16

17           a. Section 1692d of the FDCPA prohibits debt collectors from  
18 engaging in any conduct the natural consequences of which is  
19 to harass, oppress or abuse any person in connection with the  
20 collection of a debt.  
21

22           b. Defendant violated § 1692d of the FDCPA when it called  
23 Plaintiff continued to call Plaintiff on her cellular telephone  
24 after being told to stop calling her.  
25

**COUNT II**

a. A debt collector violates §1692f of the FDCPA by using unfair or unconscionable means to collect or attempt to collect any debt.

b. Here, Defendant violated § 1692f of the FDCPA engaging in other unfair and unconscionable debt collection practices, including failing to update its records to stop calling Plaintiff, after being informed to stop calling her cellular telephone, as well as failing to disclose the name of the creditor to whom the debt was owed to Plaintiff.

### COUNT III

a. A debt collector violates section 1692g(a) if within five days after the initial communication with a consumer, the debt collector fails to send the consumer a written notice containing (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the

1 validity of the debt, or any portion thereof, the debt will be  
 2 assumed to be valid by the debt collector; (4) a statement that if  
 3 the consumer notifies the debt collector in writing within the  
 4 thirty-day period that the debt, or any portion thereof, is  
 5 disputed, the debt collector will obtain verification of the debt  
 6 or a copy of a judgment against the consumer and a copy of  
 7 such verification or judgment will be mailed to the consumer by  
 8 the debt collector; and (5) a statement that, upon the consumer's  
 9 written request within the thirty-day period, the debt collector  
 10 will provide the consumer with the name and address of the  
 11 original creditor, if different from the current creditor.  
 12

- 13  
 14  
 15 b. Here, Defendant violated § 1692g(a) by failing to send written  
 16 notification, within five (5) days after its initial communication  
 17 with Plaintiff, advising her of her rights to dispute the debt or  
 18 request verification of the debt.  
 19

20 WHEREFORE, Plaintiff, LORI ANDRUKAITIS, respectfully prays for a  
 21 judgment as follows:  
 22

- 23 a. All actual damages suffered pursuant to 15 U.S.C. §  
 24 1692k(a)(1);  
 25

- 1           b.     Statutory damages of \$1,000.00 for the violation of the FDCPA  
2                   pursuant to 15 U.S.C. § 1692k(a)(2)(A);  
3  
4           c.     All reasonable attorneys' fees, witness fees, court costs and  
5                   other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.  
6                   § 1693k(a)(3); and  
7  
8           d.     Any other relief deemed appropriate by this Honorable Court.

9                   **DEMAND FOR JURY TRIAL**

10           PLEASE TAKE NOTICE that Plaintiff, LORI ANDRUKAITIS, demands a  
11 jury trial in this case.

12  
13  
14                   RESPECTFULLY SUBMITTED,

15  
16   Date: October 24, 2014

17                   By: /s/ Craig Thor Kimmel  
18                   Craig Thor Kimmel  
19                   PA. No. 57100  
20                   Kimmel & Silverman, P.C.  
21                   30 E. Butler Pike  
22                   Ambler, PA 19002  
23                   Phone: (215) 540-8888  
24                   Fax: (877) 788-2864  
25                   Email: [kimmel@creditlaw.com](mailto:kimmel@creditlaw.com)